IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 67 OF 2006
IN
CRIMINAL WRIT PETITION NO. 960 OF 1997

The Official Liquidator
of M/s Rossel Financial
Services Ltd. ....Applicant.

V/s

Mr. Ross Deas & Anr. ....Respondents.

Mr. A. Ramkrishnan for the applicant.
Mr. Vivek Sharma for respondent No.1.
Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 8th March, 2006

P.C.:

1. Heard the learned Counsel for the applicant, the learned counsel for respondent No.1.

2. The applicant has filed this application for setting aside the judgment and order passed by this Court dated 27/1/2006. It is submitted that the Writ Petition had appeared on board on 10/1/2006 and the Writ Petition was dismissed for want of prosecution. He submitted that this order was not set aside and, thereafter, on 27/1/2006, Writ Petition was placed under the caption of directions and was finally disposed of without earlier order of dismissal being set aside.

3. The learned Counsel for respondent No.1 submitted that after the Writ Petition was dismissed for want of prosecution on 10/1/2006, he had immediately mentioned the matter at 5.00 p.m. for restoration of the said Writ Petition and that this Court had directed that the matter should be placed on board for directions and that notice should be given to the applicants herein. He submitted that, accordingly, the notice was, in fact, served on the applicants herein. He submitted that, however, the earlier order of dismissal was not set aside.

4. Considering these facts, I am of the view that since no formal order of restoration was passed, the judgment and order passed by this Court dated 27/1/2006 will have to be recalled. The said order is, therefore, recalled.

5. I have heard the learned Counsel for the applicants and respondent No.1. In my view this is a fit case for restoration of the Criminal Writ Petition which was dismissed for want of prosecution on 10/1/2006. The petitioners, in fact, had mentioned the matter at 5.00 P.M. The notice was also given as per the directions which were given by this Court.

Therefore, in my view, there was no need to file separate criminal application for restoration.

6. Accordingly the order dated 10/1/2006 dismissing the Criminal Writ Petition for default is set aside. The Judgment and order dated 27/1/2006 is recalled. Office to place the Criminal Writ Petition No.960 of 1997 on the final hearing board on 27/3/2006 at 3.00 P.M. (FOB).

7. Criminal Application No. 67 of 2006 is disposed of in the above terms.

V.M. KANADE, J.